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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,)	IN EQUITY NO. C-125-ECR
)	Subproceedings: C-125-B & C-125-C
Plaintiff,)	3:73-CV-00125-ECR-WGC
)	3:73-CV-00127-ECR-WGC &
WALKER RIVER PAIUTE TRIBE,)	3:73-CV-00128-ECR-WGC
)	
Plaintiff-Intervenor,)	
vs.)	
)	SUBMISSION OF ALTERNATIVE
WALKER RIVER IRRIGATION DISTRICT,)	PROPOSED ORDERS REGARDING
a corporation, et al.,)	CERTAIN ISSUES ADDRESSED AT THE
)	STATUS CONFERENCE OF MARCH 13,
Defendants.)	2012
)	
MINERAL COUNTY,)	
Proposed-Plaintiff-Intervenor,)	
vs.)	
)	
WALKER RIVER IRRIGATION DISTRICT,)	
a corporation, et al.)	
)	
Proposed Defendants.)	

The United States of America (“United States”), Plaintiff in Case No. C-125 and Subproceeding C-125-B, hereby submits two versions of a proposed *Order Regarding Certain Issues Addressed at the Status Conference of March 13, 2012*, which this Court directed the United States to prepare and review with the primary parties, before submitting it to the Court for review. The proposed Order addresses the following issues:

1. the requests for removal from the mailing list in C-125-B filed by Mary Rosachi (Doc. #B-1691) and Walker General Inc. (Doc. #B-1692);

2. the application of the Order Regarding Service by the Clerk's Office (Doc. #B-1300, Feb. 1, 2008) to all attorneys in subproceeding C-125-B;
3. the Court's inquiry whether there were any objections to the Proof of Service (Number Five), C-125-B (Doc. #B-1670, Nov. 30, 2011); and
4. filings by and service on the United States Board of Water Commissioners ("Board").

The only language in the proposed Order for which the parties did not reach agreement concerns Issue #4 and whether the Order should state that the Board has "standing" to file. The transcript of the Status Conference on March 13, 2012, includes the following comment by the Court:

That is going to be the order of the Court going forward. The U.S. Board of Water Commissioners has – I'm going to call it standing to serve documents in these actions. . .

Transcript of Status Conference, March 13, 2012 at 24, lines 20-23. It is unclear whether the Court intended this statement to be a legal finding. During the parties' initial status conference with the Court on February 6, 2012, the Court indicated that it wanted any issues regarding the scope of the Board's authority to be raised in a motion and briefed before it would address them. Thus, it would appear that the Court did not intend to issue a legal finding regarding standing without a legal or factual analysis or a briefing of the issue by the parties. Furthermore, the Court stated at the March 13, 2012, status conference that it was not addressing any issue that the Tribe indicated it was in the process of raising with the Board. The scope of the Board's authority to act in these and other proceedings is among the issues that the Tribe, a member of the Board, wishes to address with the Board.¹

¹ Furthermore, if the Court intends a legal finding of "standing" for the Board, this finding may conflict with the underlying Order that appointed the Board in 1937. *See* Fed. R. Civ. P 53.

The differences between the two versions of the proposed Order concern Issue #4 (at p. 3 of each version) and are shown below in capital letters:

1. Version A states: “[t]he Court finds that the [Board] HAS STANDING TO serve and file documents in these actions”
2. Version B states: “[t]he Court finds that the [Board] MAY serve and file documents in these actions. . . .”

The Board’s attorney supports Version A. The United States, the Walker River Paiute Tribe and Mineral County support Version B, which was initially proposed by the Walker River Irrigation District. Counsel for the State of Nevada thinks both versions are fine, but prefers Version B. The United States received no other comments on this issue.

The United States suggests that Version B of the proposed Order would avoid any party having to consider appealing the Order and allow the Court and the parties to address the scope of the Board’s authority at an appropriate future time in a specific factual context and after the issue is briefed.

Dated: April 13, 2012

Respectfully submitted,

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By /s/ Susan L. Schneider
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CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of April 2012, I electronically filed the foregoing **SUBMISSION OF ALTERNATIVE PROPOSED ORDERS REGARDING CERTAIN ISSUES ADDRESSED AT THE STATUS CONFERENCE OF MARCH 13, 2012** with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the email addresses that are registered for this case;

and I further certify that I served a copy of the forgoing to the following non CM/ECF participants by U.S. Mail, postage prepaid, this 13th day of April, 2012:

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